

Appl. No. 10/840,042  
Docket No. 9630  
Amdt. dated December 20, 2006  
Reply to Office Action mailed on September 28, 2006  
Customer No. 27752

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## REMARKS

### Claim Status

Claims 1, 11, 19, 23 and 25 have been amended to define the claimed invention with greater specificity.

Claims 1 and 11 have been amended to recite that the claimed patterned fibrous structure comprises a surface that exhibits a deformation height of at least about 1000  $\mu\text{m}$ . Support for these amendments is found in the Specification at page 7, lines 7-10.

Claims 19, 23 and 25 have been amended to recite that the claimed method produces a patterned fibrous structure comprising a surface that exhibits a deformation height of at least about 650  $\mu\text{m}$ . Support for these amendments is found throughout the Specification, especially at page 9, lines 26-29.

Claims 2-4, 21-22 and 27-28 have been cancelled without prejudice. The subject matter of Claims 3 and 4 has been incorporated into Claim 1, as amended. Claims 21-22 and 27-28 were drawn to a non-elected species and therefore were cancelled.

Claims 1, 5-20 and 23-26 are pending in the present application. No additional claims fee is believed to be due.

### Response to Restriction Requirement

Per telephone conversation between Examiner Dennis R. Cordray and Applicants' representative, C. Brant Cook, a provisional election was made with traverse to prosecute the invention of Claims 1-20 and 23-26. It was further agreed to withdraw Claims 21-22 and 27-28 from further consideration by the Examiner as being drawn to a non-elected invention.

The Examiner has required, under 35 USC §121, election of a single disclosed invention for prosecution on the merits. Pursuant to this requirement, Applicants hereby elect to prosecute the invention designated in the Office Action as Invention I. Claims 1-20 and 23-26 are drawn to this invention. This election is made with traverse.

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Rejection Under 35 USC §102(b) Over U.S. Patent No. 5,990,377

Claims 1-9, 11, 13-14 and 16-18 are rejected by the Examiner under 35 U.S.C. 102(b) as allegedly being anticipated by U.S. Patent No. 5,990,377 to Chen, et al. ("Chen"). The Examiner asserts that Chen discloses a patterned fibrous structure that comprises a latex either as a hydrophobic material or as an adhesive. The Examiner further asserts that Chen discloses that its fibrous structure comprises a surface that has deformation height of from 400 to 800  $\mu\text{m}$ . Further, the Examiner asserts that Chen teaches that its fibrous structure can be made by a wet laid or an air laid process. Further yet, the Examiner asserts that Chen teaches that its fibrous structures can have substantially uniform density. Further yet, the Examiner asserts that Chen discloses that its fibrous structure exhibits a stretch of greater than 10% in both the CD and MD. Lastly, the Examiner asserts that Chen teaches fibrous structures that cannot nest.

Applicants respectfully submit that Chen fails to teach each and every element of Claim 1, as amended, because Chen fails to teach a fibrous structure that comprises a surface that exhibits a deformation height of at least about 1000  $\mu\text{m}$ . Accordingly, Applicants submit that Claim 1, as amended, is not anticipated by Chen. Further, Applicants submit that Claims 5-9, 11, 13-14 and 16-18 (Claims 2-4 have been cancelled), as amended, which ultimately depend from Claim 1, as amended, are not anticipated by Chen for the same reasons that Claim 1, as amended, is not anticipated by Chen.

Rejection Under 35 USC §102(b) Over U.S. Patent No. 5,409,572

Claims 1-2, 5, 11, 14 and 19 are rejected by the Examiner under 35 U.S.C. 102(b) as allegedly being anticipated by U.S. Patent No. 5,409,572 to Kershaw et al. ("Kershaw"). The Examiner asserts that Kershaw discloses an embossed tissue comprising an embossed surface having a depth of embossing of 1524  $\mu\text{m}$  or greater. The Examiner further asserts that Kershaw teaches that its tissue can comprise latex.

Applicants respectfully submit that Kershaw fails to teach each and every element of Claims 1 and 19, as amended, because Kershaw fails to teach a wet laid or air laid fibrous structure. In fact, Applicants submit that Kershaw teaches a foam-formed fibrous structure. Accordingly, Applicants submit that Claims 1 and 19, as amended, are not

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anticipated by Kershaw. Further, Applicants submit that Claims 5, 11 and 14 (Claim 2 has been cancelled), as amended, which ultimately depend from Claim 1, as amended, are not anticipated by Kershaw for the same reasons that Claim 1, as amended, are not anticipated by Kershaw.

Rejection Under 35 USC §102(b) Over U.S. Patent No. 4,612,231

Claims 19-20 and 25-26 are rejected by the Examiner under 35 U.S.C. 102(b) as allegedly being anticipated by U.S. Patent No. 4,612,231 to Bouchette, et al. The Examiner asserts that Bouchette discloses a method of making a patterned fibrous structure comprising forming a web by air-laying fibers onto a forming surface, applying a latex bonding material to the web, curing the bonding material, then imprinting a pattern into the bonded, cured, web.

Applicants respectfully submit that Bouchette fails to teach each and every element of Claims 19 and 25, as amended, because Bouchette fails to teach a method for making a fibrous structure comprising a surface that exhibits a deformation height of at least about 650  $\mu\text{m}$ . In fact, Applicants direct the Examiner's attention to Fig. 6 and its description, which indicates that the uncompressed portion of the web is about 44.6 mils and the compressed portion of the web is 31 mils, thus resulting in a deformation height of 13.6 mils or 345.4  $\mu\text{m}$ . Accordingly, Applicants submit that Claims 19 and 25, as amended, are not anticipated by Bouchette. Further, Applicants submit that Claims 20 and 26, which ultimately depend from Claims 19 and 25, as amended, respectively, are not anticipated by Bouchette for the same reasons that Claims 19 and 25, as amended, are not anticipated by Bouchette.

Rejection Under 35 USC §103(a) Over U.S. Patent No. 5,990,377

Claims 10, 12 and 15 are rejected by the Examiner under 35 U.S.C. 103(a) as allegedly defining obvious subject matter over Chen, discussed above. The Examiner asserts that even though Chen does not disclose a fibrous structure that exhibits an HFS absorbency and/or the wet burst strength and/or that its latex is substantially present in the high density regions of its fibrous structure, the Examiner concludes that it would have been obvious for one of ordinary skill in the art at the time of the invention to have produced a fibrous structure having the claimed properties.

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Applicants respectfully submit that Chen fails to teach each and every element of Claims 10, 12 and 15, which ultimately depend from Claim 1, as amended, as discussed above, because Chen fails to teach a fibrous structure comprising a surface that exhibits a deformation height of at least about 1000  $\mu\text{m}$ . Accordingly, Applicants respectfully submit that Claims 10, 12 and 15, which ultimately depend from Claim 1, as amended, are not rendered obvious over Chen for the same reasons that Claim 1, as amended, is not anticipated by nor rendered obvious over Chen. MPEP 2143.03.

Rejection Under 35 USC §103(a) Over U.S. Patent No. 4,621,231

Claims 23 and 24 are rejected by the Examiner under 35 U.S.C. 103(a) as allegedly defining obvious subject matter over Bouchette, discussed above. The Examiner asserts that Bouchette teaches that it would have been obvious to one of ordinary skill in the art to form a web by a wet laying.

Applicants respectfully submit that Bouchette fails to teach each and every element of Claim 23, as amended, because Bouchette fails to teach a method for making a fibrous structure comprising a surface that exhibits a deformation height of at least about 650  $\mu\text{m}$ . Accordingly, Applicants submit that Claim 23, as amended, is not rendered obvious over Bouchette. MPEP 2143.03. Further, Applicants submit that Claim 24, which depends from Claim 23, as amended, is not rendered obvious over Bouchette. MPEP 2143.03.

Rejection Under 35 U.S.C. §101

Claims 1-20 and 23-26 are provisionally rejected under 35 U.S.C. §101 as claiming the same invention as that of Claims 1-20 and 23-26 of co-pending Application No. 11/105998.

Applicants respectfully submit that Applicants will address this matter by amending the claims of the co-pending application to overcome this provisional rejection if needed.

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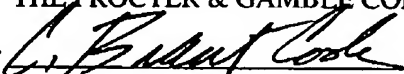
Conclusion

This response represents an earnest effort to place the present application in proper form and to distinguish the invention as claimed from the applied reference(s). In view of the foregoing, entry of the amendment(s) presented herein, reconsideration of this application, and allowance of the pending claim(s) are respectfully requested.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By



Signature

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Date: *December 20, 2006*  
Customer No. 27752  
(Amendment-Response to Office Action.doc)  
Revised 04/25/2006